

ET 99-267

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JUN 26 1999

Canyon Area Residents for the Environment, Inc.

Golden, Colorado 80401

FCC

C.A.R.E., 25958 Genesee Trail Road, Unit K 203, Golden, CO 80401-5742

C.A.R.E. Web Page: <http://www.c-a-r-e.org>

Jeffery D. Holland, President

C.A.R.E. is a coalition of homeowners' associations & neighborhoods in the Mount Vernon Canyon. Since 1987 it has served as an umbrella organization representing the central mountain communities of Jefferson County - from Clear Creek to Bear Creek, the Hogback to Rainbow Hills.

Contacts: CARE Tower Committee Co-Chairs  
Deb Carney: [deb@carneylaw.net](mailto:deb@carneylaw.net) 303 526-9666  
Dr. Ron Larson: [larcon@sni.net](mailto:larcon@sni.net) 303 526-9629  
Al Hislop: [hislop@uswest.net](mailto:hislop@uswest.net) 303 526-2346

RECEIVED

AUG 10 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

July 22, 1999

Megalie R. Salas, Esq.  
Secretary, Federal Communications Commission  
1919 M. Street, NW, Room 222  
Washington, DC 20554

Re: Lake Cedar Group (LCG) Super Tower Proposal for Lookout Mountain

Dear Ms. Salas:

Enclosed please find C.A.R.E.'s Initial Response to the FCC Notice for Public Comments. The deadline has been extended to August 23, 1999. The public was advised to send their comments to: Dr. Robert Cleveland, 445 12<sup>th</sup> St. S.W. FCC Room 7-A265, Wash, D.C. 20554, rather than to you. We are filing at both locations.

Sincerely,

Deborah Carney

Attorney for CARE

Before the  
Federal Communications Commission  
Washington, DC 20554

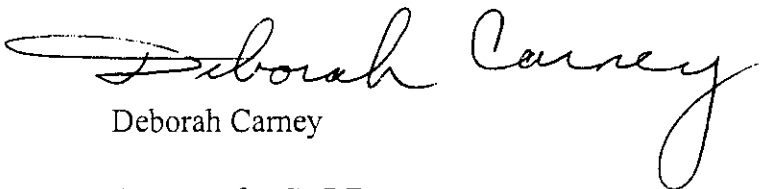
In the Matter of )  
Canyon Area Residents for Environment )  
Request for Review of Action Taken Under )  
Delegated Authority on a Petition for )  
And Environmental Impact Statement )

To the Commission:

**NOTICE OF CARE INITIAL FILING OF PUBLIC COMMENTS IN RESPONSE  
TO THE PETITION FOR RECONSIDERATION FILED BY THE ADVISORY  
COUNCIL ON HISTORIC PRESERVATION**

Canyon Area Residents for Environment (CARE) advises that they have filed the CARE's initial Public Comments. The FCC June 25, 1999( DA 99-1211) notice to the public instructed the public to mail the comments to: Dr. Robert Cleveland, 445 12<sup>th</sup> St. S.W. FCC Room 7-A265, Wash, D.C. 20554. Courtesy copies are also provided to the Commission and counsel for Lake Cedar Group. The response deadline for the public has just been extended to August 23, 1999 (DA 99-1435). CARE anticipates making an additional filing as part of CARE's public comments.

Respectfully submitted,



Deborah Carney

Attorney for CARE

# CERTIFICATE OF SERVICE

I, Deborah Carney, do hereby certify that a copy of the above pleading was served by first class mail, U.S. postage prepaid, this 23<sup>rd</sup> day of July, 1999 to the following:

Mr. William Kennard, Chairman of the FCC, original and 6 copies  
(for transmittal to Commissioners Susan  
Ness, Harold Furchtgott-Roth, Michael Powell, and Gloria Tristani )

Public Comments to FCC Notice  
Dr. Robert Cleveland,  
445 12<sup>th</sup> St. S.W. FCC Room 7-A265,  
Wash, D.C. 20554

Edward W. Hummers, Jr.  
Holland & Knight LLP  
2100 Pennsylvania Avenue, N.W. Suite 400  
Washington, D.C. 20037-3202  
(Counsel for Lake Cedar Group LLP and Twenver Broadcast, Inc.)

Todd D. Gray  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-6802  
(Counsel for Rocky Mountain Public Broadcasting Network)

Marnie K. Sarver  
Wiley, Rein & Fielding  
1776 K Street N.W.  
Washington, D.C. 20006  
(Counsel for Gannett Colorado Broadcasting, Inc.)

Arthur B. Goodkind  
Koteen & Naftalin, LLP  
1150 Connecticut Avenue N.W.  
Washington, D.C. 20036  
(Counsel for McGraw-Hill Broadcasting)

Howard F. Jaeckel  
CBS, Inc.  
51 West 52nd Avenue  
New York, New York 10019-6119

(Counsel for Group W/CBS Television Stations Partners)

Thomas Ragonetti, Esq.  
Otten, Johnson, Robinson and Neff  
950 17<sup>th</sup> St. #1600  
Denver, Co. 80202-2827  
(Attorney for Lake Cedar Group)

**And the following additional interested parties:**

Jefferson County Commissioners

Michelle Lawrence

Pat Holloway

Richard Sheehan

Jefferson County Building

100 Jefferson County Pkwy.

Golden, CO 80401-3550

(through Mr. Ron Holliday, with extra copy for Mr. Tim Carl of Planning  
Department)

Ms Kaaren Hardy and Ms. Georgianna Contiguglia

State Hist Preserv. Officer

Colorado State Historical Society

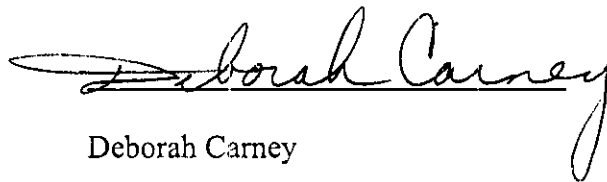
Colorado History Museum

1300 Broadway, Denver, CO 80203-2137

Ms. Jane Cristler

Advisory Council on Historic Preservation

12136 Bayaud Ave., Lakewood, CO 80228

A handwritten signature in cursive script, reading "Deborah Carney". The signature is written in black ink and is positioned above the printed name.

Deborah Carney

EXHIBIT INDEX TO COMMENTS ON LAKE CEDAR GROUP PROPOSED  
SUPERTOWER AND TRANSMISSION BUILDING-POTENTIAL IMPACTS ON  
HISTORIC AREAS

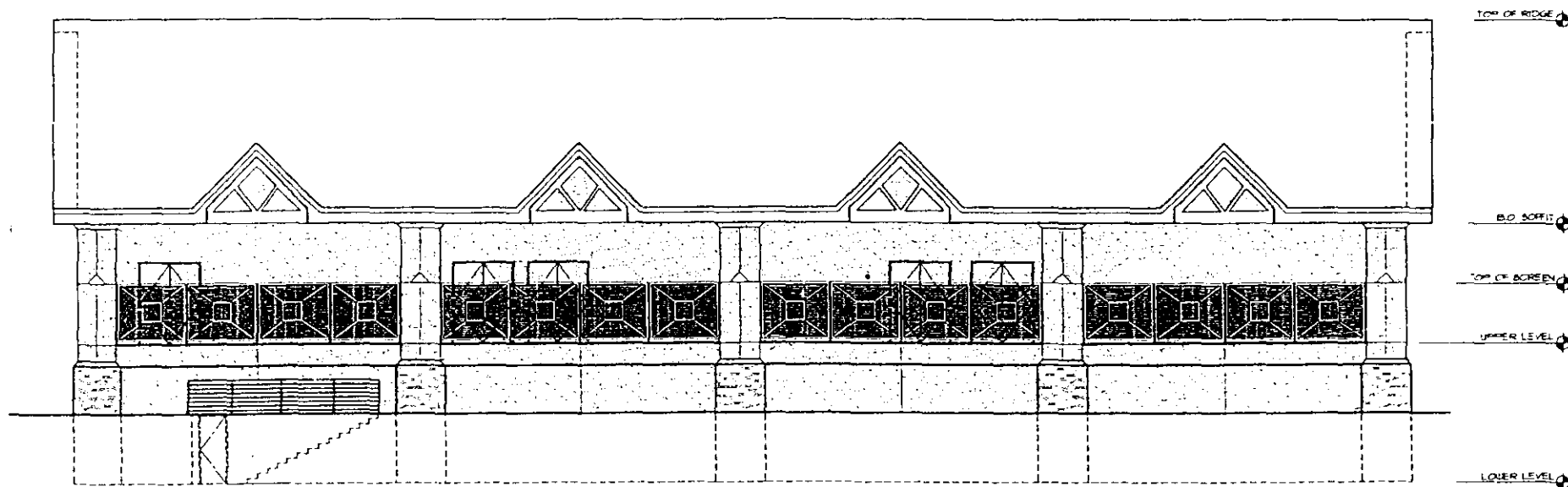
EXHIBIT #	DESCRIPTION
1	25,600 square foot transmission building-east elevation
2	Photo-Applewood Shopping Center
3	Photo-Days Inn Motel, 6 <sup>th</sup> and Federal
4	Architect Andy Beck Testimony before Jeffco Commissioners
5	Jefferson County's Central Mountain Community Plan
6	Resume-Architect Andy Beck
7	Drawing of tower
8	Official Development Plan-Lake Cedar Group
9	Map shows transmission building and tower in relation to homes
10	Magic Mt.-Butterick letter-This is on Lookout Mountain
11	Map of the Arapaho and Cheyenne Territory as of 1851
12	Article on Arapaho
13	Denver Mountain Parks Map with X showing transmitter building
14	Index of Sites on National Historic Register.
15	Mother Cabrini Shrine Application for National Historic Register
16	Index of Sites that might qualify for National Historic Register
17	1983 Denver Mountain Parks to the United States Department of the Interior National Park Service Section E page 16
18	Affidavit of Jim Hill, whose wheelchair went out of control and over a precipice due to interference
19	<b>Boettcher Mansion</b> also known as Lorraine Lodge
20	Boettcher Mansion flyer on interference
21	Astor House Hotel
22	Amory
23	The 12 <sup>th</sup> Street Historic Residential District
24	Foothills Art Center
25	Golden High School
26	Camp George West Historic District
27	Quaintance Block
28	Calvary Episcopal Church
29	Hill Section, Golden Cemetery
30	Loveland/Coors Building
31	Colorado RR Museum
32	Coors House
33	Gov. Steele's homesite
34	Thiede Ranch
35	Rooney Ranch
36	Jefferson County Historical Commission, in their July 15, 1999
37	Mountain Backdrop
38	Mountain Backdrop purchases

39

Case Summary of Jefferson County Planning and Zoning-

40

Addendum to Staff Comments for Lake Cedar Group  
Denver Mountain Parks letter



**EAST ELEVATION**  
SCALE: 3/32" = 1'-0"



 <b>LEE ARCHITECTS/ INTERIOR DESIGNERS</b>  2535 S. WADSWORTH BLVD. SUITE #21 DENVER, COLORADO 80227 PHONE 353/9499-4000 FAX 949-4511	<b>LOOKOUT MOUNTAIN TRANSMITTER BUILDING</b>		Date FEB. 18, 1999 Drawn by LTO Checked by KPZ Title ELEV.	1



PLAINTIFF'S  
EXHIBIT  
2





PLAINTIFF'S  
EXHIBIT  
3

## ARCHITECTURE

The second topic I promised to address is **Architecture**.

I am a **licensed architect** whose entire professional work is devoted to **designing buildings to fit into the environment** for the National Park Service.

I have studied the design for the Transmitter Building you see presented here:

VISUAL EXHIBIT 1 - Lee Architects "East Elevation"

The **MOUNTAIN SITE DESIGN CRITERIA** of The Central Mountain Community Plan speaks eloquently about blending with our unique surroundings. "...**ARCHITECTURAL DESIGN EMPHASIZING NATURAL MATERIALS, LIGHT, SHADOW, DEPTH AND TEXTURE...**" and so on. With this design we are not getting what we bargained for.

This design is not one of "Colorado mountain architecture." Rather, it is the architecture of **STRIP MALLS AND CHEAP MOTELS**.

I realize that to those to whom this design is near and dear to their heart "**them's flightin' words.**" But consider these two photographs:

VISUAL EXHIBIT 2 - Applewood shopping center

VISUAL EXHIBIT 3 - Days Inn Motel, 6th ave and Federal Blvd.

Now, please, consider these together. The similarity is remarkable These photos show the **same materials and details** that have been proposed for the Transmitter Building.

These materials and this configuration **will not blend in** at all. Indeed, just think about it. Motels and strip malls are doing their best to **make their buildings visible**, to draw your attention. This is the antithesis of what the Mountain Site Design Criteria demands.

We already know that the **TOWER** itself will be **TALLER THAN THE TALLEST BUILDINGS** in downtown Denver. But, a close look at the few plans we've seen reveals a building **THAT WILL NOT BE ALONE**. The retaining walls and building will be seen as one continuous mass almost as tall as this Jefferson County Courthouse. In addition, the **BRIDGE STRUCTURE** will be seen, visually enlarging the building as do the retaining walls.

The square footage alone, is roughly between the size of a King Soopers and Walmart. Hardly blending with the environment.

We have not been offered enough information to evaluate other issues, such as:

What are the plans for **FUTURE EXPANSION**?

What **OUT-BUILDINGS** or other structures are proposed or may be added to the complex? e.g. fuel tanks, garages, generator buildings, storage structures and so on?

**NIGHT LIGHTING?** Will this development be "Stephenson's-Automotive-on-the-



mountain?" Probably.

Will there be **SATELLITE DISHES**, small antennae or transmission devices on the roof or elsewhere on this site? Better than probably.

Is there to be any **NOISE MAKING EQUIPMENT**, such as generators, and how loud will it be?

We have seen almost nothing regarding **COLOR, TEXTURE OR FINISH** of the materials proposed.

What little has been shown, fails to meet the standards of the **MOUNTAIN SITE DESIGN CRITERIA of The Central Mountain Community Plan**.

It is doubtful that anything at this mass and scale can meet the good standards of our Community Plan.

I vote against this kind of design. I encourage you three to vote against it as well.

Thank you for your attention.

I will be happy to address any questions you might have for me.

Canyon Area Residents  
for the Environment  
25958 Genesee Trail Road  
Unit K 203  
Golden, CO 80401-5742

# THE CENTRAL MOUNTAINS COMMUNITY PLAN



PLAINTIFF'S  
EXHIBIT

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JEFFERSON COUNTY, COLORADO, PLANNING AND ZONING DEPARTMENT

**ANDY BECK - Architecture, since 1964!**

**\*Professional Honors:**

National Design for Transportation Award, 1995  
President's Award for Design Excellence, 1994  
Federal Design Achievement Award, 1992  
National Historic Preservation Award, 1992  
Special Act Award, NPS, 1991  
Special Achievement Award, NPS, 1991  
Certificate of Excellence, NPS, 1990  
Special Achievement Award, NPS, 1990  
Design Honor Award, NPS, 1987  
Design Honor Award, NPS, 1987  
Special Achievement Award, NPS, 1985  
Director's Award, NPS, 1982

**\*Professional Background:**

Architecture,  
visitor centers to outhouses, NPS 1978-95  
Historic Preservation,  
major hotels to small houses, NPS 1978-95  
Project Supervisor,  
many construction projects, NPS 1980-83  
Structural working drawings,  
E.W.F. Peterson, 1976  
Package Engineer for 1500 molded parts, IBM, 1977  
Design Assistant for furniture shop drawings,  
Albert Wood & Five Sons, 1973  
Field Representative, construction inspection,  
EBASCO Services, 1972  
Contract Bid coordination, compiling & delivery,  
Sea Crest Construction, 1971  
Maintenance man, ballfields & outhouses,  
Nassau County Parks, 1970  
Foreman of rebar crew,  
4-Way Construction, 1968-69  
Ditch digger, Crystal Pools, 1968

**\*Education:**

Bachelor of Environmental Design,  
Texas A&M University, 1972  
Master of Architecture, University of Colorado, 1976  
Licensed Architect, Colorado B-1950, 1983.

**\*Building Design:**

Fossil Butte Visitor Center,  
Team Captain/Project Architect.  
National Grasslands Visitor Center, Wall, SD,  
Team Captain/Project Architect.  
Polebridge Development, Glacier National Park,  
Team Captain/Project Architect.  
Erbie Campground, Buffalo National River,  
Team Captain/Project Architect.  
Big Woods Development, Jean Lafitte,  
Comfort Stations, Project Architect.  
Chisos Basin Fire Cache,  
Team Captain/Project Architect.

**\*Preservation, Restoration & Renovation:**

Old Faithful Inn Restoration,  
Team Captain, Project Architect and Project Supervisor.  
Camp George West Restoration, Golden, Colorado,  
Team Captain/Project Architect.  
Many Glacier Hotel, assessment team leader, Glacier  
Rectified Photography, Ft. Lamed, Kansas.  
Interior Renovation, HS-4, Yellowstone.  
Measured Drawings, Old Faithful Inn, Yellowstone.

**\*Communication, Presentations & Publications:**

President's Advisory Council on Historic  
Preservation, talk/slide show, Washington, D.C., 1992  
Interpretive Programs, Yellowstone, 1980-84.  
Slide shows, Living History and "The Architect's Tour".  
Outhouse Design Class, National Recreation and  
Parks Association Annual School, 1989-91.  
"Architecture in Parks", Slide show and talk for the  
Third Fossil Conference sponsored by NPS, 1992.  
"The Inn the Park and Other Things", 1980-95.  
Slide show/talk presented hundreds of times worldwide.  
1916 Carpenter, 1980-83. Living history tour of the  
Old Faithful Inn, Yellowstone National Park, Wyoming.  
Books, Magazines & Newspapers, published dozens  
of times about both my work and hobbies.

**\*Research, Analysis and Evaluation:**

Master's Thesis, Two Lost Buildings, the work of  
Louis Sullivan and Frank Lloyd Wright in Colorado.  
1933 Chicago World's Fair Exhibition &  
Lustron Homes, analysis and alternatives.  
Research Grant, parks, recreation, open space,  
Great Falls, Montana, published, Parks for Our City.

**\*Teaching:**

Advanced First Aid Instructor,  
American Red Cross.  
Mountaineering Instructor, Colorado Mountain Club.  
Guest Lecturer, many schools, K to post grad.  
e.g., University of Colorado, College of Architecture.

**\*Leadership:**

Created, Captained and Coached,  
Texas A&M Wrestling Team.  
Head Resident, University graduate student housing.  
Squad Leader, Army ROTC,  
trained eleven men to be officers.  
Mountaineering Leadership Manual Author

**\*Graphics:**

Package Graphics, IBM Corporation.  
Coffee House Art Director, wall graphics, posters,  
lighting design, advertising, cafe layout, logo.  
Brochure cover, University of Colorado Housing.

**\*Photography:**

Published, Professional Architectural Photographer  
600 photos selected for university slide file.  
Own and operate a black & white darkroom.

**\*The Otherwise Andy Beck:**

Crafts: sewing, weaving, woodwork, furniture design  
Athletics: wrestling, track, backpacking, fencing, skiing,  
technical rock climbing, jujitsu, surfing, squash, riflery.

**\*Art, Academic, Athletic & Automotive Honors**

First Place,  
Colorado State Novice Foil Championship, 1976  
Second Place,  
Texas State Collegiate Wrestling Assoc., 1972  
Best-of-Show, Artfair '70  
Varsity Letters, eleven awards, 1966-72  
1st, 2nd & 3rd Place, international competition,  
Military Vehicle Preservation Association, 1989  
Hill-Maffei Award, Texas A&M University, 1972

PLAINTIFF'S  
EXHIBIT  
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## Andy Beck, Architect, NPS/DSC, National Awards, Fame & Glory!

### **Professional Honors:**

National Design for Transportation Award, 1995, Polebridge Development, Glacier  
President's Award for Design Excellence, 1994, Old Faithful Inn, Yellowstone  
Federal Design Achievement Award, 1992, Old Faithful Inn, Yellowstone  
National Historic Preservation Award, 1992, Old Faithful Inn, Yellowstone  
Special Act Award, NPS, 1991, Fossil Butte National Monument Visitor Center  
Special Achievement Award, NPS, 1991, Fossil Butte Visitor Center  
Construction Honor Award, NPS, 1987, Old Faithful Inn, Yellowstone  
Design Honor Award, NPS, 1987, Fossil Butte National Monument Visitor Center

### **Old Faithful Inn Restoration Project, Yellowstone National Park**

Between 1980-83 **Andy Beck** was the Project Architect for the restoration of the Old Faithful Inn in Yellowstone National Park, Wyoming. The log-construction Inn is a 350 room hotel built in 1903. Better late than never, between 1992 and 1994, Andy's work was recognized three times, winning the "Grand Slam" of historic preservation for his work at Old Faithful.

The first distinction was the **Federal Design Achievement Award**, the highest honor from the National Endowment for the Arts. It is given every four years as a result of a national competition.

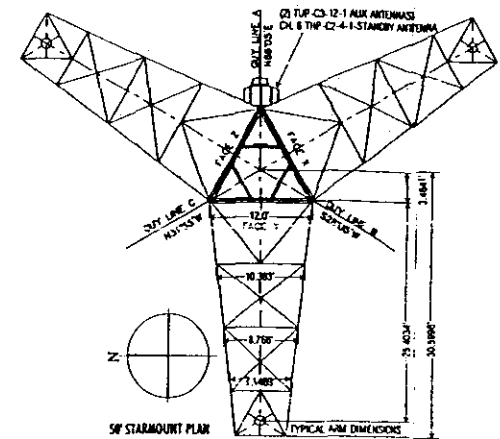
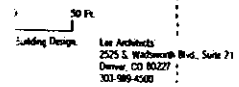
The second award was the **President's Award for Design Excellence**. This distinction is from the President of the United States and is the highest honor for any federal project. Only winners of the Federal Design Achievement Award are eligible to compete.

Third, Andy won the **National Historic Preservation Award**, which is the highest honor given by the President's Advisory Council on Historic Preservation. This last award was in commemoration of the 25<sup>th</sup> anniversary of the Historic Preservation Act of 1966, and has been given out only twice in 25 years.

The Federal Design Achievement Award was bestowed at the Old Faithful Inn. Both the President's Award for Design Excellence and the National Historic Preservation Award were supposed to have been presented at White House ceremonies. Because of delays in scheduling with then-President George Bush, the Advisory Council on Historic Preservation scheduled a colorful ceremony next door to the White House in the Treasury Building. The Advisory Council hosted a weekend of events, including a banquet dinner.

A Portion of the S.W. 1/4 of Section 4, T. 4 S., R. 70 W. of the 6th P.M.  
Jefferson County, Colorado

CASE NUMBER 98015154RZPO  
MAP NUMBER 107



2

Use Area B: All portions of the property within the ODP (as described by the legal description on Sheet 1 of this ODP) except Use Area A.

### 3. Land Use Standards

#### A. Permitted uses and structures

- (i) Use Area A: Receiving and broadcasting telecommunications signals, including commercial and non-commercial television and radio signals, and transmitting and receiving data in connection with broadcasting services shall be permitted within Use Area A. Subject to the restrictions of this ODP, the following new primary structures shall be permitted within Use Area A: one guy wire-supported three-faced lattice tower to support telecommunications antennas, accessory telecommunications equipment and other equipment designed for installation on a tower structure (the "Tower"); one telecommunications transmitter building (the "Transmitter Building"); and one transmission line bridge to support the transmission lines running from the transmitters in the Transmitter Building to the antennas installed on the Tower (the "Transmission Line Bridge"). Illustrative locations for the Tower, the Transmitter Building and the Transmission Line Bridge are indicated on Sheet 2 of this ODP. The actual locations of these improvements may vary to address technological, engineering and site constraints so long as they otherwise conform to all requirements of this ODP. In addition to the Tower, the Transmitter Building and the Transmission Line Bridge and subject to all of the restrictions of this ODP, there shall be permitted within Use Area A other equipment and devices that are accessory to telecommunications transmission facilities, including, for example, transformers, guy wire anchors for the Tower, emergency backup generators and related underground fuel storage, cooling units, broadcasting antennas, microwave antennas, satellite dishes, whip antennas, sectorized panel antennas, electronic news gathering equipment, and radar equipment. Subject to the setback, height, coloring, engineering, radio frequency and other restrictions and standards of this ODP, accessory communications equipment and devices such as broadcasting antennas, microwave antennas, satellite dishes, whip antennas, sectorized panel antennas, electronic news gathering equipment and radar equipment may be installed within Use Area A on the ground, Use (1) monopoles not exceeding 30 feet in height, the Tower, the Transmitter Building, and the Transmission Line Bridge, and the existing accessory structures in Use Area A that are described in the following paragraph.

~~As of the date of the approval of this ODP, there must within Use Area A the following structures: the Channel 4 telecommunications necessary building, a 44-foot lattice telecommunications tower, and a 42-foot lattice telecommunications tower. Such structures are depicted on Sheet 4 of this ODP and shall be permitted in Use Area A as accessories to the telecommunication operations of the Tower and Transmitter Building.~~

Parking of automobiles and service vehicles is permitted within Use Area A in connection with the operation and maintenance of the facilities and equipment within this ODP.

As required pursuant to Section 15 of the Zoning Resolution concerning ODPs for telecommunications towers, at such time as there have not been any antennas on the Tower or the Tower has been abandoned for 6 consecutive months, the Tower will be removed within 180 days of the end of said 6-month period.

PLAINTIFF'S  
EXHIBIT

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Nothing in this Section 3(A)(1) shall be construed to limit the provisions in Section 7 requiring the removal of the "Ch. 4 Tower" (as defined in Section 7) located in Use Area A.

- (ii) Use Area B Guy wires and guy wire anchors for the Tower, along with utility transmission lines, shall be permitted within Use Area B. Illustrative locations for the guy wires and guy wire anchors for the Tower are indicated on Sheet 2 of this ODP. The actual locations of the guy wires and guy wire anchors may vary to address technological, engineering and site constraints so long as they otherwise conform to the requirements of this ODP. Except as otherwise permitted by Section 3(J) of this ODP, no buildings, structures, other improvements, facilities, devices or equipment may be constructed or installed within Use Area B, and Use Area B shall be left primarily in its undisturbed natural condition as a buffer between Use Area A and adjacent properties.

- B. Tower and guy wire anchor setbacks The Tower shall be located in Use Area A and setback a minimum of: 150 feet from western boundary of Use Area A, 150 feet from the southeast corner of Use Area A, and 150 feet from the northwest corner of Use Area A. Each guy wire anchor for the Tower shall be setback a minimum of 50 feet from any adjacent property boundary, except the intermediate anchor for the guy wire extending from the southwest corner of the Tower shall be set back a minimum of 30 feet from any adjacent property boundary.
- C. Building setbacks The Transmitter Building shall be located in Use Area A and setback a minimum of: 50 feet from the western boundary of Use Area A, 50 feet from the southern boundary of Use Area A, and 50 feet from the northwest corner of Use Area A.
- D. Tower size The Tower shall not exceed a height of 8,130 feet above mean sea level, (as measured to the top of the uppermost projection of the Tower or any its highest antenna) shall not exceed an approximate height of 854 feet above finished grade and in no event shall exceed the height of the top of the highest antenna or other equipment attached to it on the "Ch. 4 Tower" (as defined below). Each face of the Tower shall not exceed a width of 12 feet measured horizontally between the centers of its outside vertical supports. Small platforms and pedestals used for servicing the Tower and mounting equipment permitted pursuant to this ODP may extend from the face of the Tower. A stamout shall be permitted to be located on top of and extend horizontally from the faces of the Tower to support antennas and other telecommunications equipment permitted pursuant to this ODP. The stamout may consist of up to three arms, with each such arm extending horizontally from a face of the tower no more than 30 feet, measured to the outermost projection of the stamout or any equipment attached to it. The Tower and its various structural components, including the stamout, are illustratively depicted on Sheet 3 of this ODP. Subject to the restrictions stated above in this paragraph and all other restrictions of this ODP, the Tower as constructed may vary from such illustrative depiction.
- E. Building height The Transmitter Building shall not exceed a height of 38 feet measured vertically from the average elevation of the finished grade of the Transmitter Building to the highest point of the roof surface if a flat roof; or to the deck line if a mansard roof; or to the mean height between eaves and ridge if a gable, hip or gambrel roof.
- F. Equipment location Except as expressly provided in Section 3(J) below, new telecommunications equipment and devices installed on the property shall be installed within Use Area A in compliance with all restrictions of this ODP.

All equipment and devices installed in Use Area A and not within the Transmitter Building shall, in addition to complying with all other provisions of this ODP, comply with the following restrictions. No whip antenna installed on the Transmitter Building or the existing Channel 4 necessary building shall extend more than 15 feet above the

1/11/99

Jeffco Planning & Zoning  
8:22: PAOE 6/13 RightFAX

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0000

highest point of the roof of the ~~building on which it is installed~~ Transmitter Building. No microwave antenna, sectorized panel antenna or other similar or dish-like device installed on the Transmitter Building or the existing ~~Channel 4 accessory building~~ shall extend more than 12 feet above the highest point of the roof of the ~~building on which it is installed~~ Transmitter Building. Ground-mounted and monopole-mounted dishes and other telecommunications devices shall be setback a minimum of 50 feet from the western boundary of Use Area A. No microwave antenna, sectorized panel antenna or other similar or dish-like device installed on the Transmission Line Bridge shall extend more than 15 feet above the top surface of the Transmission Line Bridge.

**G. Temporary use:**

Heavy equipment, machinery and vehicles, construction trailers, temporary sanitation facilities, materials and equipment storage, and other temporary uses accessory to the construction and removal of large telecommunication towers and associated transmitter buildings shall be permitted on any area of the property during construction, maintenance and repair of the Tower and Transmitter Building or the removal of any tower or other improvement located on the property. In addition, temporary telecommunication transmission antennas may be operated on the property as necessary to satisfy any emergency broadcasting system requirements or to fulfill a broadcaster's FCC licensing obligations. The use of any temporary transmission antenna shall be subject to the restrictions of this ODP pertaining to non-ionizing electromagnetic radiation. Any temporary structure or device permitted by this paragraph shall be removed from the property within 30 days after the need for the structure or device ceases.

The existing towers facilities to be removed pursuant to Section 7 shall be permitted temporary structures until the deadlines for their removal pursuant to Section 7.

**H. Parking**

A minimum of 6 automobile parking spaces shall be provided within Use Area A for the users of the Transmitter Building.

**I. Building floor area:**

The Transmitter Building shall not exceed 32,250 square feet in total floor area, excluding any attic space, outdoor balconied areas, and any attached area not exceeding 2,000 square feet in floor area (whether roofed or unroofed) used to enclose emergency backup generators. The area of the footprint of the Transmitter Building shall not exceed 18,000 square feet, excluding any attached area not exceeding 2,000 square feet in floor area (whether roofed or unroofed) used to enclose emergency backup generators.

**J. Existing facilities in Ch. 9 radar facilities Use Area B:**

The term "Existing Device" means any telecommunication device or other piece of "Ch. 9 Radar Facilities" means the following items located in Use Area B: (1) the one-story telecommunication accessory to a telecommunication facility that is building located within Use Area B at the time of the approval immediately to the northeast of the "Ch. 9 Tower" designated on Sheet 4 of this ODP; (2) the term "Existing Structure" means any building, tower or other improvement to land (the "Ch. 9 Building"); (3) the three-faced self-supporting lattice telecommunication tower with a top-mounted spherical radome that is located within Use Area B at the time of the approval of this ODP. The Existing Structures are depicted on Sheet 4 of this ODP. A list of the Existing Devices has been placed on file with the County to the northeast of the Ch. 9 Building (the "Ch. 9 Radar Tower"); and (3) the radar equipment and other equipment located in and around the Ch. 9 Building and on the Ch. 9 Radar Tower that is used in connection with the operation of the weather radar operated by Channel 9, KUSA-TV.

With respect to Existing Devices and Existing Structures the Ch. 9 Radar Facilities, this Section 3(J) shall supercede the provisions of the Zoning Resolution governing non-conforming buildings, structures and uses. Nothing in this Section 3(J) shall limit the effect of Section 7 of this ODP concerning the removal of certain other existing towers facilities located within Use Area B or the restrictions of this ODP concerning permissible levels of non-ionizing electromagnetic radiation.

~~Except as provided below and in Section 7 of this ODP, any Existing Device or Existing Structure, the Ch 9 Radar Facilities may be maintained and used within Use Area B even though such Existing Device or Existing Structure does not conform to the provisions of this ODP. If an Existing Device remains unused, the Ch 9 Radar Facilities remain unused or have been abandoned for a period of 180 days or more, such Existing Device the Ch 9 Radar Facilities shall be removed from Use Area B. If an Existing Structure remains unused or has been abandoned for a period of 180 days or more, the Existing Structure shall be demolished and from the expiration of said 180-day period. Once the Ch 9 Radar Facilities have been removed from Use Area B within 180 days from the expiration of said 180-day period. Once an Existing Device or an Existing Structure has been removed from Use Area B as provided above, it they may not be replaced within Use Area B.~~

~~No Existing Structure shall~~ The Ch 9 Radar Facilities may not be expanded or enlarged; provided, however, that the weight-bearing capacity and wind-loading capacity of an existing tower in Use Area B the Ch 9 Radar Tower may be increased to the extent necessary to maintain the tower in conformance with local, state or national standards for weight-bearing capacity and wind-loading capacity.

~~Any Existing Device or Existing Structure~~ The Ch 9 Radar Facilities or any component of them may be serviced, maintained, replaced and repaired to preserve it in good condition and repair. Any Existing Device that is a component of a more complex system comprising multiple Existing Devices may be replaced to keep such system operating and them in good condition and repair.

~~Any Existing Structure that is~~ If the Ch 9 Radar Facilities are damaged or destroyed by fire, flood, wind, earthquake, snow, ice, other calamity or vandalism, they may be restored and the same use of such Existing Structure them resumed, provided that such restoration is started within a period of 1 year from the date of damage and is diligently pursued to completion. In no event will this paragraph or any other provision of this Section 3(J) be construed to exempt Owner or any user of the property from the requirements of Section 7 concerning the removal of certain other existing towers facilities.

#### 4. Design Standards

- A. Building design The Transmitter Building shall be recessed into the hillside to help minimize its visual impact. Natural materials (e.g., stone or wood) used on the exterior of the Transmitter Building shall be left their natural color, provided that wood used on the exterior of the Transmitter Building may be painted muted earth tones. Other exterior materials and finishes of the Transmitter Building shall be muted earth tones in color. Utility connections to the Transmitter Building shall be installed underground, unless otherwise required by the utility provider or their function. The Transmission Line Bridge shall be painted muted earth tones to help it blend into its surroundings.
- B. Equipment color Antennas and other telecommunications devices located above or on the rooftop of a building or structure shall be screened, constructed or colored to match the building or structure to which they are attached or background against which they are most commonly seen. Antennas and other telecommunications devices mounted on the side of or immediately adjacent to a building or structure shall be painted to match the color of the building or structure. Ground-mounted or monopole-mounted antennas and other devices shall be painted to match the background against which they are most commonly seen.

- C. Tower marking and Lighting Pursuant to 47 C.F.R. § 17.23 promulgated by the Federal Communications Commission (the "FCC"), the Tower shall be marked and lighted to the extent and in the manner recommended by the Federal Aviation Administration in its determination of "no hazard" for the Tower. If white obstruction lighting is used on the Tower during daytime, such lighting shall be deflected away from the ground to the maximum extent permitted under the applicable federal regulations.
- D. Landscaping The existing vegetation will not be removed except as required for construction of the Tower, Transmitter Building, access drive, parking and as necessary to reduce wildfire hazard. All areas disturbed by grading, except for cuts into competent bedrock, shall be revegetated with low growing native grasses within 12 months after the substantial completion of construction activities. Use Area A will be landscaped and revegetated in a manner conforming to the landscape plan submitted in conjunction with this ODP.
- E. Fencing Once completed, the Transmitter Building, the Tower, the Transmission Line Bridge and the Tower's guy wire anchors shall be enclosed within fenced areas. Fencing shall not exceed 8 feet in height unless otherwise required by the FCC. Any fencing shall be painted or clad in a manner to reduce reflectivity.
- F. Security lighting Security lighting may be used to illuminate the area around the base of the Tower and the Transmitter Building. Such All exterior lighting (except obstruction lighting on the Tower) shall be downcast and shall not cast glare on adjacent properties or roadways. Lights mounted on the Transmitter Building shall be mounted no higher than the Transmitter Building. No pole used to support lighting equipment shall exceed 18 feet in height.
- G. Signage The following types of signs shall be permitted to be erected or installed on the property: (1) signs not requiring a permit under the Zoning Resolution; (2) signs requiring a permit which are permitted in all zone districts pursuant to the Zoning Resolution; (3) warning and identification signs required or recommended pursuant to local, state or federal regulations; (4) signs (each of which shall not exceed 4 square feet in surface area) used to notify the public that no trespassing is permitted on the property and to warn the public that hazards may be encountered on the property; and (5) a sign identifying Owner and the address of the property. Except as provided above, no signs shall be permitted to be erected or installed on the property. Except as required by law, no sign shall be self-illuminated. Without limiting the foregoing, no commercial or advertising signs may be erected on the property.
- H. Sound attenuation Sound emanating from the property will comply with the applicable noise standards of Section 12.1, Part II of the Land Development Regulation and C.R.S. 25-12-103, or any replacement or revised version of such standards.

## 5. Radio Frequency Issues

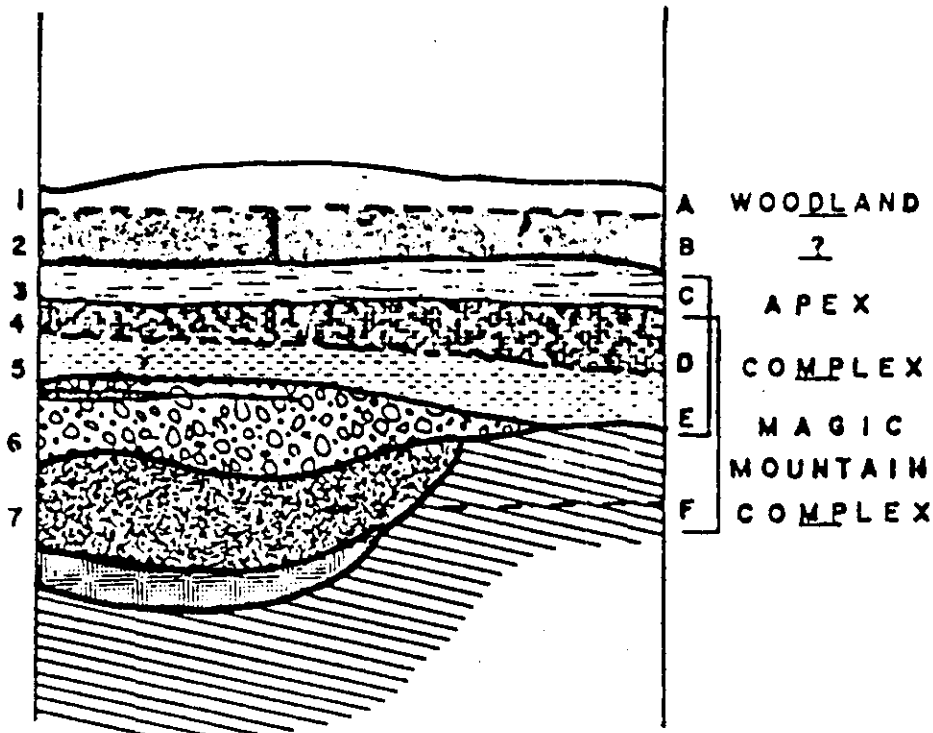
- A. Interference The members of Owner and any lessee of telecommunication space on the Tower shall obtain all permits, licenses and approvals required by the FCC concerning frequency interference, and shall comply with all FCC, state and local regulations pertaining to testing, prevention, and resolution of interference problems. Before operation commences on the Tower, Owner will establish an engineering committee to address any interference problems. Owner will enlist the expertise of a professional engineering service to help in determining and eliminating interference the engineering committee is unable to resolve.
- B. Health A new source of non-ionizing electromagnetic radiation ("NIE") or increase in NIE from an existing source on the property, when combined with existing sources of NIE,



# Magic Mountain Archaeological Site

GEOLOGICAL  
UNITS

ARCHAEOLOGICAL  
UNITS



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On August 21, 1980, Magic Mountain Site was put on the National Register of Historic Places. Located in Jefferson County, boundaries of the site include areas of Apex Gulch on the south to a sandstone outcrop on the north. It is a private, unoccupied, restricted site. Briefly, it was discovered and excavated in 1959 and 1960 and is a unified complex of associated types through several zones, covering a period from 3500 B.C. through 1000 A.D. Woodland Period cord-marked pottery and small corner-notched points were found. This means that the site was an extensive habitation, camp and burial place, shows that the site was occupied as a long-term campsite, and demonstrates some community patterning. Magic Mountain Site has proven to be one of the most important sites in Colorado for yielding information on the Archaic through the Woodland Periods, and has provided basic archaeological chronological sequence for the eastern Colorado foothills.

PLAINTIFF'S  
EXHIBIT

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## **PREHISTORIC ARCHAEOLOGICAL RESOURCES ON LOOKOUT MOUNTAIN**

March 9, 1999

by  
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Golden, CO  
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The probability of the existence of significant archaeological sites in the vicinity of the proposed Lookout Mountain SuperTower is high. The first set of foothills bordering the Golden to Morrison corridor of Jefferson County, Colorado contains several significant prehistoric archaeological sites. These very early archaeological sites date to the Middle Archaic Period, from approximately 2000 to 1000 B.C. That several of these early sites occur in the Jefferson County foothills indicates that the Lookout Mountain tower site may also contain early cultural resources.

Since the 1920s, archaeologists from the Peabody Museum of Harvard University, the Colorado (now Denver) Museum of Natural History, and the Colorado State Historical Society have conducted extensive scientific excavations in the Jefferson County foothills to better understand the earliest human migrations into the Americas. Archaeologists suggest that the concentration of Middle Archaic Period sites in the foothills "may indicate a preferred habitat" for the first native peoples occupying Colorado.<sup>1</sup>

The scientifically excavated cultural sites in the Jefferson County foothills include the rockshelters of Willowbrook, Ken Caryl, LeDaska at Morrison, and the open site of Magic Mountain just north of Heritage Square in Golden. Of these, Magic Mountain on lower Lookout Mountain may be considered the most significant as it is placed on the National Register of Historic Properties (5JF223, in 1980).<sup>11</sup>

The importance of the Magic Mountain site in determining further development on Lookout Mountain is threefold. First, the site contains scientific evidence of extremely early human occupation. Radiocarbon tests date the initial occupation of Lookout Mountain to 4,900 years before present, during the Early Archaic Period when the first peoples migrated over the Bering Strait land bridge to the Americas.

Second, excavations at Magic Mountain reveal a tremendous time depth to the aboriginal occupation of Lookout Mountain. Arrowheads (or projectile points), groundstone like manos and metates, and ceramic pottery dug from the upper surfaces of the site date to the Plains Woodland Period, from A.D. 100 to 1000. Thus, Magic Mountain was occupied by indigenous peoples continuously for 3000 years. The subsequent Historic Period witnessed expansion of the Ute, Cheyenne, and other Plains Indian tribes into the immediate vicinity.

Third, the findings of intense and prolonged prehistoric occupation at Magic Mountain, combined with the Ute overlook site of Colorow Point (another National Historic Property, and named for the Ute Indian, Chief Colorow), suggest that the lower site of Lookout Mountain may contain significant early and historic cultural resources that must be investigated prior to further destruction of the area.

### BIBLIOGRAPHY

Excavations at Magic Mountain, by Cynthia Irwin-Williams. Ph.D. dissertation, Harvard University, 1963.

The Archaeology of Colorado, by Steve E. Cassells. Johnson Books, Boulder, 1983.

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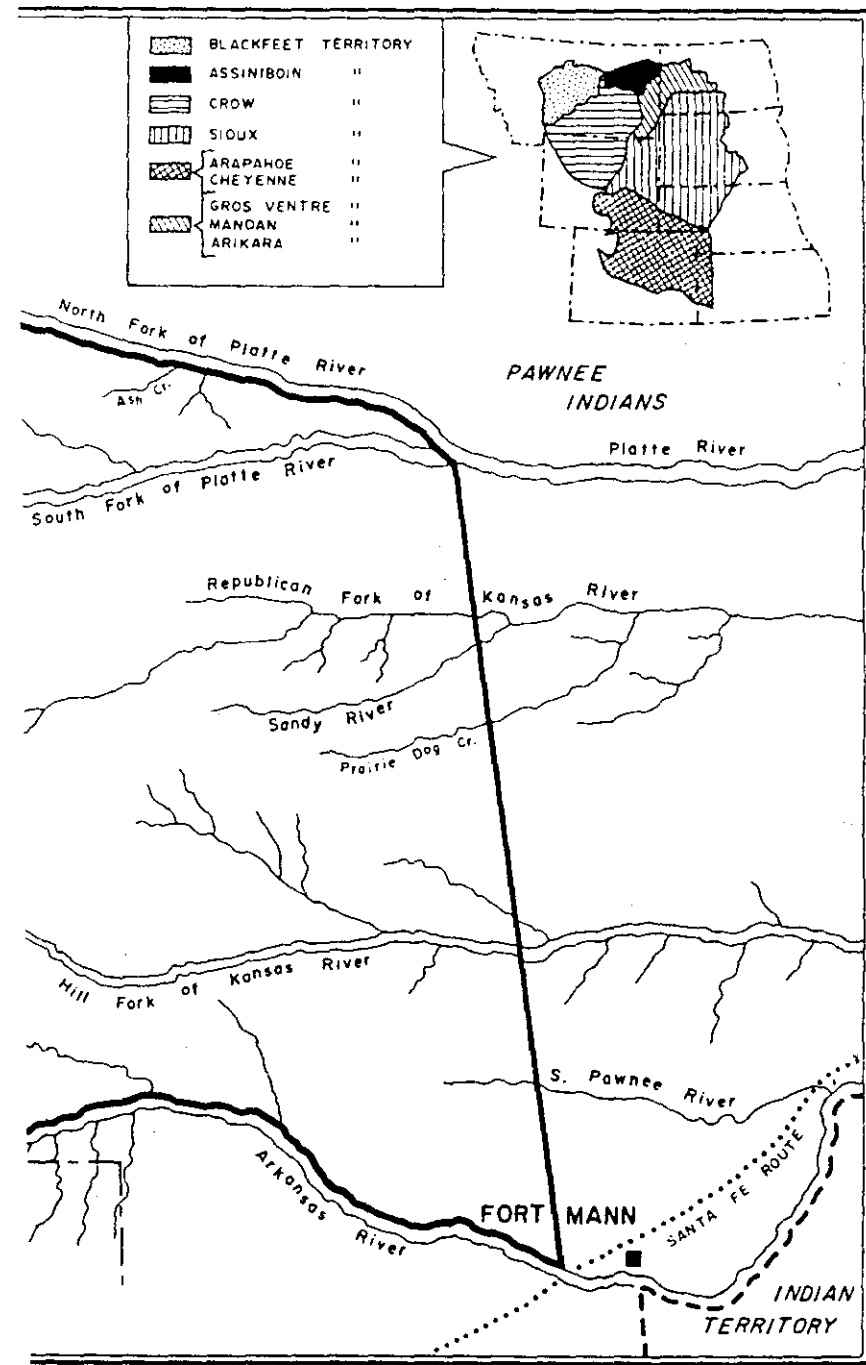
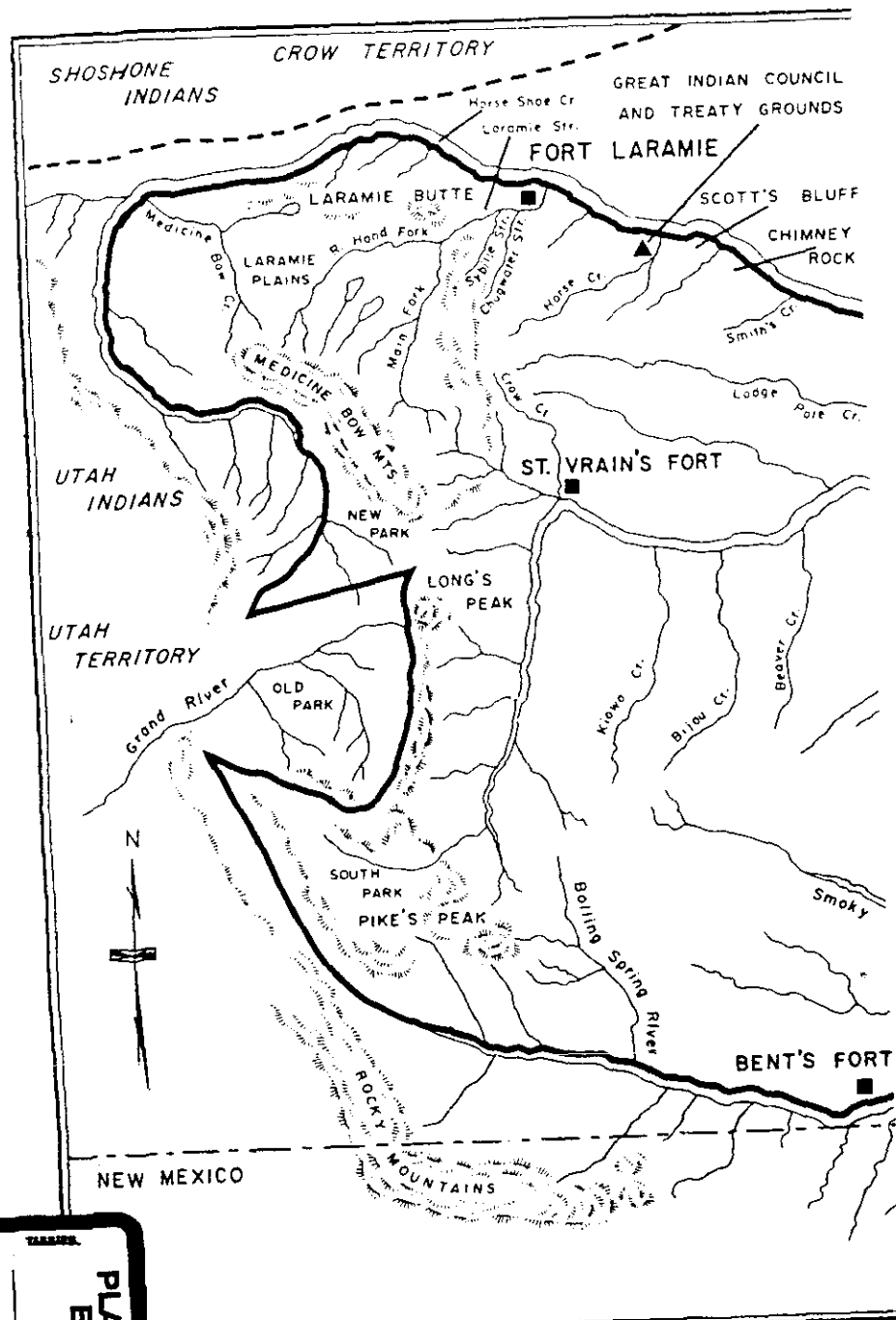
Excavations at the LoDaiska Site, by J.J. and C.C. Irwin. Denver Museum of Natural History 1959.

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<sup>1</sup> Cassells 1983:97

<sup>2</sup> Other sites located on Lookout Mountain in Jefferson County that are listed in the National Register of Historic Properties are the Mount Vernon House (5JF185, in 1970), Colorow Point Park (5JF644, in 1990), Boetcher Mansion (5JF23, in 1984), Lookout Mountain Park (5JF648, in 1990), and Lariat Loop Trail (5JF446, in 1990).





Map 1. Arapahoe and Cheyenne Territory, 1851. Redrawn from the map presented to D. D. Mitchell by P. T. DeSmet in 1851 (map 251, Central Map File, Records of the Bureau of Indian Affairs, Record Group 75, Cartographic Branch, National Archives).